

AMENDED IN SENATE MAY 6, 2004

AMENDED IN SENATE MARCH 23, 2004

SENATE BILL

No. 1800

Introduced by Senator Murray
(Coauthor: Assembly Member Benoit)

February 20, 2004

An act to amend Section 12810 of, and to add Section 23123 to, the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 1800, as amended, Murray. Vehicles: distracting activities.

(1) Existing law prohibits driving a vehicle on the highway in willful or wanton disregard for the safety of persons or property.

This bill would make it an infraction for a person to operate a vehicle in an unsafe manner that results from engaging in a distracting activity, as defined, while driving. The bill would require a first offense to be punished by a fine of \$35, and a second or subsequent offense that occurs within 2 years of a prior conviction for the infraction to be punished by a fine of \$150. By creating a new crime, the bill would establish a state-mandated local program.

The bill would prohibit a law enforcement officer from stopping a vehicle when a person is engaging in a distracting activity while driving, unless the officer observes that the vehicle is being operated in an unsafe manner.

(2) Existing law requires that any person whose driving record shows a violation point count of 4 or more points in 12 months, 6 or more points in 24 months, or 8 or more points in 36 months be prima facie presumed to be a negligent operator of a motor vehicle. In

determining the point count, each conviction of specified traffic violations is given a value of either one or two points.

This bill would prohibit a first-time violation of the specified provision from being given a point value, and would require a 2nd or subsequent violation within 2 years of a prior conviction to be given a value of one point.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 12810 of the Vehicle Code is amended
2 to read:

3 12810. In determining the violation point count, the following
4 shall apply:

5 (a) A conviction of failure to stop in the event of an accident in
6 violation of Section 20001 or 20002 shall be given a value of two
7 points.

8 (b) A conviction of a violation of Section 23152 or 23153 shall
9 be given a value of two points.

10 (c) A conviction of reckless driving shall be given a value of
11 two points.

12 (d) (1) A conviction of a violation of subdivision (c) of Section
13 192 of the Penal Code, or of Section 2800.2 or 2800.3, subdivision
14 (b) of Section 21651, subdivision (b) of Section 22348,
15 subdivision (a) of Section 23109, subdivision (c) of Section
16 23109, or Section 31602 of this code, shall be given a value of two
17 points.

18 (2) A conviction of a violation of subdivision (a) or (b) of
19 Section 23140 shall be given a value of two points.

20 (e) Except as otherwise provided, a traffic conviction involving
21 the safe operation of a motor vehicle upon the highway shall be
22 given a value of one point.



(f) A traffic accident in which the operator is deemed by the department to be responsible shall be given a value of one point.

(g) (1) A violation of paragraph (1), (2), (3), or (5) of subdivision (b) of Section 40001 shall not result in a violation point count being given to the driver if the driver is not the owner of the vehicle.

(2) A conviction of a violation of paragraph (1) or (2) of subdivision (b) of Section 12814.6, subdivision (a) of Section 21116, Section 21207.5, 21708, 21710, 21716, 23120, 24800, or 26707 shall not be given a violation point count.

(3) A conviction of a violation of Section 23123 shall be given a point value as follows:

(A) A violation punished as required under paragraph (1) of subdivision (a) of Section 23123 shall not result in a violation point count.

(B) A violation punished as required under paragraph (2) of subdivision (a) of Section 23123 shall result in a violation point count of one point.

(4) A violation of Section 23136 shall not result in a violation point count.

(h) A conviction for only one violation arising from one occasion of arrest or citation shall be counted in determining the violation point count for the purposes of this section.

(i) A conviction of a violation of Section 14601, 14601.1, 14601.2, 14601.3, or 14601.5 shall be given a value of two points.

(j) A conviction of a violation of Section 27360 or 27360.5 shall be given a value of one point.

SEC. 2. Section 23123 is added to the Vehicle Code, to read:

23123. (a) A person shall not operate a vehicle in an unsafe manner that results from engaging in a distracting activity while driving. A violation of this section shall be punished as follows:

(1) For a first offense, *by* a fine of thirty-five dollars (\$35).

(2) For a second or subsequent offense that occurs within two years of a prior conviction for a violation of this section, *by* a fine of one hundred fifty dollars (\$150).

(b) For the purposes of this section, a “distracting activity” is any of the following:

(1) Using or adjusting a wireless telephone, regardless of whether the telephone is specifically designed and configured to allow hands-free operation.

1 (2) Using or adjusting a personal electronic device, including,
2 but not limited to, a personal digital assistant.

3 (3) Adjusting the controls of an audio or other entertainment
4 device.

5 (4) Adjusting or manipulating the controls of an information
6 system device.

7 (5) Smoking.

8 (6) Eating or drinking.

9 (7) Interacting with children, animals, passengers, or objects in
10 the vehicle.

11 (8) Performing personal grooming or personal hygiene
12 activities.

13 (9) Reading or writing.

14 (c) A law enforcement officer shall not stop a vehicle when a
15 driver is engaging in a distracting activity while driving, unless the
16 officer observes that the vehicle is being operated in an unsafe
17 manner.

18 (d) This section does not apply to an emergency services
19 professional using a wireless telephone or other electronic device
20 in the course and scope of his or her duties while operating an
21 authorized emergency vehicle or an emergency vehicle providing
22 emergency road service or roadside assistance.

23 SEC. 3. No reimbursement is required by this act pursuant to
24 Section 6 of Article XIII B of the California Constitution because
25 the only costs that may be incurred by a local agency or school
26 district will be incurred because this act creates a new crime or
27 infraction, eliminates a crime or infraction, or changes the penalty
28 for a crime or infraction, within the meaning of Section 17556 of
29 the Government Code, or changes the definition of a crime within
30 the meaning of Section 6 of Article XIII B of the California
31 Constitution.